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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,409	07/18/2003	Angela Temple	14892-004001	4188
26231	7590	12/22/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			AUGHENBAUGH, WALTER	
			ART UNIT	PAPER NUMBER
			1772	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/622,409	TEMPLE ET AL.	
	Examiner Walter B. Aughenbaugh	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 October 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 and 17-22 is/are pending in the application.

4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:
 

- 1. Certified copies of the priority documents have been received.
- 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Acknowledgement of Applicant's Amendments***

1. The amendment made in claim 1 in the Amendment filed on October 2, 2006 (Amdt. C) has been received and considered by Examiner.
2. Claim 1 is improperly presented in Amdt. C. The word "only" in line 2 of claim 1 should be underlined. Applicant's After Final Amendment filed February 27, 2006, which added "only" in line 2 of claim 1, was not entered for the reasons made of record in the Advisory Action mailed March 16, 2006.

## ***REPEATED REJECTIONS***

### ***Claim Rejections - 35 USC § 102***

3. The 35 U.S.C. 102 rejection of claims 1-7 and 9 made of record in paragraph 3 of the previous Office Action mailed May 31, 2006 has been repeated for the reasons previously made of record. The addition of "a single" and "only" in claim 1 in Amdt. C (note again that "only" should have been underlined in Amdt. C as explained above in paragraph 2) does not change the scope of the claim and does not affect the rejection of record.

### ***Claim Rejections - 35 USC § 103***

4. The 35 U.S.C. 103 rejection of claim 8 made of record in paragraph 4 of the previous Office Action mailed May 31, 2006 has been repeated for the reasons previously made of record.
5. The 35 U.S.C. 103 rejection of claims 10 and 11 made of record in paragraph 5 of the previous Office Action mailed May 31, 2006 has been repeated for the reasons previously made of record.

***Response to Arguments***

6. Applicant's arguments regarding the 35 U.S.C. 102 rejection of claims 1-7 and 9 have been fully considered but are not persuasive. Brown discloses an eyewipe comprising "a single material forming only one cavity with one opening configured to receive a finger" for the reasons of record. The claim is not drawn to solely "a single material forming only one cavity with one opening configured to receive a finger".

7. Applicant's arguments regarding the 35 U.S.C. 103 rejection of claim 8 have been fully considered but are not persuasive. Applicant has not explained how Applicant's argument that "Applicant's amended claimed invention... defeats the purpose of Brown" addresses the rejection of record. Applicant's characterization of the "claimed invention" as "a single material having only one cavity" is incorrect. The claim is not drawn to "a single material having only one cavity" as the entire invention. The claim does not recite that the single material "ha[s]" anything. Applicant has quoted the phrase "a single material having only one cavity" on page 7 of Amdt. C, but this language is not used in claim 8 or in claim 1: citation to where this phrase appears in the application is requested.

8. Applicant's arguments regarding the 35 U.S.C. 103 rejection of claims 10 and 11 have been fully considered but are not persuasive. Applicant has not provided any support for Applicant's argument that Brown and Wilkman in combination do not teach or suggest the claimed invention.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is to 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

12/18/06

WBA



JENNIFER MCNEIL  
SUPERVISORY PATENT EXAMINER

12/18/06